

108TH CONGRESS  
1ST SESSION

# S. 736

To amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 27, 2003

Mr. ENSIGN (for himself, Mr. ALLARD, Ms. CANTWELL, Mr. DORGAN, Mr. HARKIN, Mr. LEVIN, Mr. LUGAR, Mr. HAGEL, Mr. LIEBERMAN, Mr. WYDEN, Mr. REID, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Animal Fighting Pro-  
5       hibition Enforcement Act”.

1 **SEC. 2. ENFORCEMENT OF ANIMAL FIGHTING PROHIBI-**  
 2 **TIONS UNDER THE ANIMAL WELFARE ACT.**

3 (a) IN GENERAL.—Section 26 of the Animal Welfare  
 4 Act (7 U.S.C. 2156) is amended—

5 (1) by redesignating subsections (c) through (h)  
 6 as subsections (d) through (i), respectively;

7 (2) by inserting after subsection (b) the fol-  
 8 lowing:

9 “(c) SHARP INSTRUMENTS.—It shall be unlawful for  
 10 any person to knowingly sell, buy, transport, or deliver in  
 11 interstate or foreign commerce a knife, a gaff, or any  
 12 other sharp instrument attached, or designed or intended  
 13 to be attached, to the leg of a bird for use in an animal  
 14 fighting venture.”;

15 (3) in subsection (e) (as redesignated by para-  
 16 graph (1)), by striking “(c)” and inserting “(d)”;

17 (4) in subsection (f) (as redesignated by para-  
 18 graph (1))—

19 (A) by striking “(a), (b), or (c)” and in-  
 20 serting “(a), (b), (c), or (d)”;

21 (B) by striking “1 year” and inserting “2  
 22 years”;

23 (5) by striking subsection (g) (as redesignated  
 24 by paragraph (1)) and inserting the following:

25 “(g) INVESTIGATIONS.—

1           “(1) IN GENERAL.—The Secretary or any per-  
2           son authorized by the Secretary shall make such in-  
3           vestigations as the Secretary considers necessary to  
4           determine whether any person has violated or is vio-  
5           lating any provision of this section.

6           “(2) ASSISTANCE.—Through cooperative agree-  
7           ments, the Secretary may obtain the assistance of  
8           the Federal Bureau of Investigation, the Depart-  
9           ment of the Treasury, and other law enforcement  
10          agencies of the United States and of State, tribal,  
11          and local governmental agencies in the conduct of an  
12          investigation under paragraph (1).

13          “(3) WARRANTS.—

14               “(A) ISSUANCE.—A judge of the United  
15               States, United States magistrate judge, or  
16               judge of a State or tribal court of competent ju-  
17               risdiction in the district in which is located an  
18               animal, paraphernalia, instrument, or other  
19               property or thing that there is probable cause  
20               to believe was involved, is about to be involved,  
21               or is intended to be involved in a violation of  
22               this section shall issue a warrant to search for  
23               and seize the animal or other property or thing.

24               “(B) APPLICATION; EXECUTION.—A  
25               United States marshal or any person authorized

1 under this section to conduct an investigation  
2 may apply for and execute a warrant issued  
3 under subparagraph (A), and any animal, para-  
4 phernalia, instrument, or other property or  
5 thing seized under such a warrant shall be held  
6 by the authorized person pending disposition of  
7 the animal, paraphernalia, instrument, or other  
8 property or thing by a court in accordance with  
9 this subsection.

10 “(4) STORAGE OF ANIMALS.—

11 “(A) IN GENERAL.—An animal seized by a  
12 United States marshal or other authorized per-  
13 son under paragraph (3) shall be taken prompt-  
14 ly to an animal housing facility in which the  
15 animal shall be stored humanely.

16 “(B) NO FACILITY AVAILABLE.—If there is  
17 not available a suitable animal storage facility  
18 sufficient in size to hold all of the animals in-  
19 volved in a violation, a United States marshal  
20 or other authorized person shall—

21 “(i) seize a representative sample of  
22 the animals for evidentiary purposes to be  
23 transported to an animal storage facility in  
24 which the animals shall be stored hu-  
25 manely; and

1 “(ii)(I) keep the remaining animals at  
2 the location where the animals were seized;

3 “(II) provide for the humane care of  
4 the animals; and

5 “(III) cause the animals to be banded,  
6 tagged, or marked by microchip and photo-  
7 graphed or videotaped for evidentiary pur-  
8 poses.

9 “(5) CARE.—While a seized animal is held in  
10 custody, a United States marshal or other author-  
11 ized person shall ensure that the animal is provided  
12 necessary care (including housing, feeding, and vet-  
13 erinary treatment).

14 “(6) FORFEITURE.—

15 “(A) IN GENERAL.—Any animal, para-  
16 phernalia, instrument, vehicle, money, or other  
17 property or thing involved in a violation of this  
18 section shall be liable to be proceeded against  
19 and forfeited to the United States at any time  
20 on complaint filed in any United States district  
21 court or other court of the United States for  
22 any jurisdiction in which the animal, para-  
23 phernalia, instrument, vehicle, money, or other  
24 property or thing is found.

“(B) DISPOSITION.—On entry of a judgment of forfeiture, a forfeited animal shall be disposed of by humane means, as the court may direct.

“(C) COSTS.—Costs incurred by the United States for care of an animal seized and forfeited under this section shall be recoverable from the owner of the animal—

“(i) in the forfeiture proceeding, if the owner appears in the forfeiture proceeding; or

“(ii) in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

“(D) CLAIM TO PROPERTY.—

“(i) IN GENERAL.—The owner, custodian, or other person claiming an interest in a seized animal may prevent disposition of the animal by posting, or may be ordered by any United States district court or other court of the United States, or by any tribal court, for any jurisdiction in which the animal is found to post, not later than 10 days after the animal is seized, a bond with the court in an amount

sufficient to provide for the care of the animal (including housing, feeding, and veterinary treatment) for not less than 30 days.

“(ii) RENEWAL.—The owner, custodian, or other person claiming an interest in a seized animal may renew a bond, or be ordered to renew a bond, by posting a new bond, in an amount sufficient to provide for the care of the animal for at least an additional 30 days, not later than 10 days after the expiration of the period for which a previous bond was posted.

“(iii) DISPOSITION.—If a bond expires and is not renewed, the animal may be disposed of as provided in subparagraph (A).

“(7) EUTHANIZATION.—Notwithstanding paragraphs (1) through (6), an animal may be humanely euthanized if a veterinarian determines that the animal is suffering extreme pain.”; and

(6) in subsection (h) (as redesignated by paragraph (1))—

(A) in subparagraphs (A) and (B) of paragraph (2), by inserting before the semicolon the following: “(including a movement to, from, or

1 within land under the jurisdiction of an Indian  
 2 tribe)”; and

3 (B) in paragraph (3), by striking “tele-  
 4 phone, radio, or television” and inserting “tele-  
 5 phone, the Internet, radio, television, or any  
 6 technology”.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
 8 23 of the Animal Welfare Act (7 U.S.C. 2153) is amend-  
 9 ed—

10 (1) by striking “SEC. 23. The Secretary” and  
 11 inserting the following:

12 **“SEC. 23. FEES; AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) FEES.—The Secretary”; and

14 (2) by striking the third sentence and inserting  
 15 the following:

16 “(b) AUTHORIZATION OF APPROPRIATIONS.—There  
 17 are authorized to be appropriated such sums as are nec-  
 18 essary to carry out this Act.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
 20 this section take effect on the later of—

21 (1) the date of enactment of this Act; or

22 (2) May 13, 2003.

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